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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DEC 16 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Implementation of Sections  
of the Cable Television Consumer  
Protection and Competition  
Act of 1992:

Rate Regulation

)  
)  
) MM Docket No. 93-215  
)  
) MM Docket No. 92-266  
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REPLY COMMENTS OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these Reply Comments in response to comments filed on November 16, 1994, in the above captioned proceeding<sup>1</sup>. NTCA is a national association of approximately 500 small and rural local exchange carriers ("LECs") providing telecommunications services to interexchange carriers ("IXCs") and end users across rural America. Approximately 160 of NTCA's members also operate small cable television systems in their telephone service area. Most of them provide service under the rural exemption in 47 C.F.R. § 63.58. Many of these companies have fewer than 1,000 customers. They generally operate with small staffs. Most of them were established by the telephone companies at the request of customers or franchising authorities because service could not be obtained from large multiple system operators. Because service is provided in sparsely populated areas the systems have

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<sup>1</sup> Comments filed in response to the Commission's Fifth Order on Reconsideration and Further Notice of Proposed Rulemaking, ("FNPR"), FCC 94-234, released September 26, 1994.

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generally not been subject to "effective competition." Costs for these companies, however, are also generally higher in these areas because they do not possess the economies of scale present in more densely populated areas.

#### DISCUSSION

While there is general agreement among the parties filing comments that the Commission should expand the definition of a small cable system, there is not agreement as to what that new definition should be. NTCA agrees that the Commission's definition for a small cable system as serving 1,000 or fewer customers from a principal headend is too restrictive. Likewise, so is the definition of a small operator serving 15,000 or fewer customers. The National Cable Television Association ("NCTA") noted NTCA's earlier argument that a small system definition should be based on a franchised serving area and not on a principal headend serving area.<sup>2</sup> The Commission's rate regulation and customer service regulations are enforced on a franchise level, therefore so should the Commission's definition be based on a franchise level.<sup>3</sup>

Many parties correctly note that smaller LECs are faced with

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<sup>2</sup> NCTA at note 43.

<sup>3</sup> The Commission's customer service obligations are enforced by a franchise authority on a franchise basis, not a principal headend basis. 47 C.F.R. § 76.309(a). Likewise, basic service tier rates are enforced by a certified franchise authority on a franchise basis not a principal headend basis. 47 C.F.R. § 76.910.

less stringent reporting requirements than the larger LECs.<sup>4</sup> The Commission subjects Class B LECs to less imposing accounting regulations than Class A LECs.<sup>5</sup> LECs with less than \$100 million in annual operating revenues are not required to file a cost allocation manual with the Commission.<sup>6</sup> These relaxed requirements recognize that smaller businesses and the public will benefit by removing the burdens of costly reporting on small businesses and their customers. NTCA believes that small cable systems and small cable operators should also benefit from substantially reduced regulations than those imposed by the Commission on larger systems and operators. Many of these systems are managed locally and can be expected to quickly respond to customer demands without the necessity of federally mandated regulations.

NTCA does agree with others that a small cable operator should at a minimum be defined as one with \$40 million in annual revenues or less and not as an operator with 15,000 customers or less.<sup>7</sup> The 15,000 cutoff can be biased against cable companies serving rural America. As the SBA states at 8, "[t]hese firms

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<sup>4</sup> Joint Comments of Cable Operators at 5-6 and 8-9, Chief Counsel for Advocacy of the United States Small Business Administration (SBA) at 4-7, Small Cable Business Association at 10-13, 17, and 20, and NCTA at 19-22.

<sup>5</sup> 47 C.F.R. § 32.11 (a)-(c).

<sup>6</sup> 47 C.F.R. § 64.903.

<sup>7</sup> See, NCTA at 21-25, Small Cable Business Association at 21, Chief Counsel for Advocacy of the United States Small Business Administration at 8.

have the least capacity to absorb regulatory burdens and do not have adequate access to financing. Therefore, it is these companies that are in need of special regulatory assistance, such as higher benchmark regulatory rates or streamlining of administrative costs." These companies typically have lean staffs that should be allowed to maintain a focus on providing service and not on burdensome regulation.

#### CONCLUSION

For the above stated reasons, NTCA urges the Commission to define small systems based on the number of customers served in a franchise area and not served by a principal headend. NTCA also urges the Commission to not define small cable operators as those serving 15,000 or fewer, but as those with \$40 million or less in annual revenue.

Respectfully submitted,

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December 16, 1994

**CERTIFICATE OF SERVICE**

I, Rita H. Bolden, certify that a copy of the foregoing  
Reply Comments of the National Telephone Cooperative Association  
in MM Docket Nos. 93-215 and 92-266 was served on this 16th day  
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